

REMARKS

Reconsideration of the application is respectfully requested.

Claims 1, 2, 8, 9, 11, 12, 14-16, 22-24, 28, 31-34 and 37-38 are in the application.

Claims 3-7, 10, 13, 17-21, 25-27, and 29-30 are presently withdrawn in view of a previous election. Through this amendment, claims 1 and 15 have been amended.

In the Official Action, the Examiner rejected claims 1 and 15 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. In particular, the Examiner asserted that the following limitation was not sufficiently described in the specification: "the medicament within the syringe being solely accessible through the tip of the syringe with removal of said tip cap." In response, the term "solely" has been deleted. As such, the limitation now states, "the medicament within the syringe being accessible through the tip of the syringe with removal of said tip cap." Paragraphs [0006], which discusses pre-filling of a syringe barrel with medication, and [0029], which discusses connecting the tip cap to a syringe, provide support for this limitation. See, also, Fig. 2. It is respectfully submitted that claims 1 and 15, as amended, are in accord with 35 U.S.C. §112.

Claims 1, 2, 8, 9, 11, 12, 14-16, 22-24, 28, 31-34 and 37-38 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Wallace et al. (U.S. Design Patent No. D457,954) in view of Rowekamp (U.S. Patent No. 4,535,906). The Examiner admitted that

Wallace et al. fails to disclose "the body having a non-circular cross-section." The Examiner relied on Rowekamp for allegedly overcoming this deficiency.

Wallace et al. is a design patent which shows a syringe tip cap having a base portion with an upper surface and a lower surface. The upper portion, as admitted by the Examiner, is circular in shape.

Rowekamp is directed to a bottle having an overcap 30 for attaching to container 10. The overcap 30 includes a top planar portion 34 with a skirt member 36 extending downwardly along the periphery of the top planar portion 34. (Col. 3, ll. 51-55).

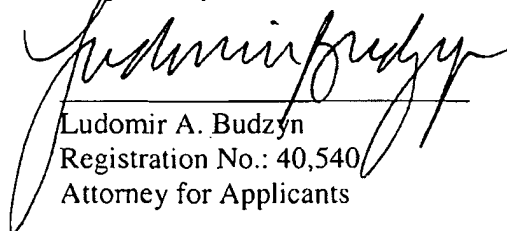
Claims 1 and 15 are the only pending independent claims of the application. Both claims 1 and 15 refer to a tip cap which includes "a base portion having an upper surface and a lower surface" with "a body having a top wall extending from said upper surface and self-maintained in having a substantially non-circular cross-section in an unstressed condition when viewed at an angle substantially perpendicular to said upper surface". Further, a shaft extends from "said lower surface, said shaft being shaped internally to releasably receive [a] tip of [a] syringe". In contrast, Rowekamp does not disclose having a top wall which extends from the upper surface of a base portion. Rather, the top portion 34 is provided which is planar and from which the skirt 36 depends downwardly from. With any hypothetical combination of Wallace et al. and Rowekamp, the lower, not upper, portion of Wallace et al. would be modified to have the shape of the skirt 36 disclosed in Rowekamp. There is no disclosure or suggestion in either of Wallace

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et al. or Rowekamp to use a non-circular top wall as set forth in claims 1 and 15. It is respectfully submitted that claims 1 and 15, along with dependent claims 2, 8, 9, 11, 12, 14, 16, 22-24, 28, 31-34 and 37-38, are patentable over Wallace et al. and Rowekamp, each taken alone or in combination.

Favorable action is earnestly solicited. If there are any questions, or if additional information is required, the Examiner is respectfully requested to contact Applicants' attorney at the number listed below.

Respectfully submitted,



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